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REMARKS OF
HENRY A. WAXMAN,
CHAIRMAN,
SUBCOMMITTEE ON HEALTH AND THE ENVIRONMENT
BEFORE
LOS ANGELES COUNTY BAR ASSOCIATION TAX PROGRAM
JUNE 24, 1983

I'M VERY GLAD TO BE WITH YOU TODAY.

THIS MEETING IS REALLY QUITE TOPICAL, BECAUSE THE CONGRESS AND THE BUDGET DEBATE HAVE ARRIVED AT EXACTLY THE POINT YOU HAVE--HEALTH AND TAXES. I THINK THAT THESE ISSUES WILL DOMINATE MUCH OF THE POLITICAL DEBATE FOR THE NEXT TWO YEARS, AND I'M HAPPY TO HAVE THIS OPPORTUNITY TO OFFER YOU SOME OF MY VIEWS ABOUT THEM.

LET ME OUTLINE THE MOST BASIC PROBLEM.

MONTHS AGO, THE CONGRESSIONAL BUDGET OFFICE TOLD US THAT NOW THAT THE REAGAN PROGRAM IS IN PLACE, WE COULD EXPECT FEDERAL DEFICITS OF AT LEAST $150 BILLION TO $200 BILLION A YEAR FOR THE NEXT THREE TO FIVE YEARS. THIS IS IN CONTRAST TO DEFICITS OF SOME $60 BILLION A YEAR JUST TWO YEARS BEFORE--BEFORE THE PROGRAM TO CUT TAXES, CUT DOMESTIC SPENDING AND INCREASE MILITARY SPENDING.

THE RESULT IS THAT AFTER TAKING OVER 200 YEARS TO BUILD OUR FIRST TRILLION DOLLARS OF DEBT, WE WILL GET THE SECOND TRILLION IN ABOUT FIVE YEARS.

NO ONE IS HAPPY WITH SUCH LEVELS OF DEBT AND DEFICIT, ALTHOUGH SOME ADVOCATES OF THE BUDGETS THAT PUT US THERE NOW ARGUE THAT DEFICITS DON'T MATTER. I WISH THAT I COULD BELIEVE THAT THEY WERE CORRECT.

IN ANY CASE, BARRING ANY MAJOR NEW SOURCES OF REVENUE--AND I DON'T THINK ANY ARE LIKELY IN THE IMMEDIATE FUTURE--THE BUDGET OFFICE HAS ALSO TOLD US THAT THERE ARE ONLY FOUR AREAS OF THE BUDGET THAT SHOW ANY GROWTH OVER THAT SAME THREE TO FIVE YEAR PERIOD:

- INCOME MAINTENANCE, MOSTLY SOCIAL SECURITY;
- THE MILITARY;
- INTEREST ON THE DEBT; AND
- HEALTH.

THIS LIST HAS REAL MEANING FOR HEALTH PROVIDERS AND THOSE OF US CONCERNED WITH HEALTH CARE. AND IT SHOULD CAUSE US SOME ANXIETY.

* THE CONGRESS HAS ALREADY ACTED ON SOCIAL SECURITY, AND WHILE THERE WERE SUBSTANTIAL SAVINGS IN THOSE CHANGES, THEY WERE NOWHERE NEAR $200 BILLION A YEAR.

* THE REAGAN ADMINISTRATION SEEMS SET ON TEN PERCENT GROWTH PER YEAR, AFTER INFLATION, IN MILITARY SPENDING AND MANY MEMBERS OF CONGRESS SEEM INCLINED TO GO ALONG.

* INTEREST ON THE DEBT IS TRULY A MATTER THAT IS OUT OF CONTROL. I'M SURE THAT SOME OF YOU OWN BONDS AND TREASURY BILLS, AND THE REST OF US HAVE AT LEAST BANK ACCOUNTS THAT WOULD SUFFER IF THE COUNTRY DEFAULTED ON ITS DEBT.

WHICH MEANS THAT AS FAR AS THE BUDGET GOES, BENJAMIN FRANKLIN WAS ABOUT RIGHT--NOTHING IS INEVITABLE EXCEPT HEALTH AND TAXES. MUCH OF THE DEBATE WILL BE CONTROLLING HEALTH COSTS AND RAISING TAXES.

RESTORING A REASONABLE RELATIONSHIP BETWEEN REVENUES AND OUTLAYS IS GOING TO BE HARD WORK.

ON THE REVENUE SIDE, FOR INSTANCE, WE HAVE SEEN JUST IN THE PAST FEW WEEKS HOW A RELATIVELY PAINLESS METHOD OF RAISING $20 BILLION BY WITHOLDING A FRACTION OF THE TAXES ON DIVIDENDS AND INTEREST WAS KILLED AFTER A CAMPAIGN OF DISTORTION.

AN ATTEMPT TO RAISE BILLIONS BY CAPPING INDIVIDUAL TAX CUTS HAS BEEN PROPOSED IN THE HOUSE, BUT FEW PEOPLE EXPECT IT TO PASS THE SENATE AND NO ONE DOUBTS THE PRESIDENT WOULD VETO IT IF IT GOT TO HIS DESK.

BUT THERE ARE ALSO SEVERAL COST-CONTROL AND HEALTH-RELATED TAX PROPOSALS THAT ARE UNDER SERIOUS CONSIDERATION.

AS CHAIRMAN OF THE SUBCOMMITTEE ON HEALTH AND THE ENVIRONMENT, I DO NOT USUALLY CONCERN MYSELF WITH TAX QUESTIONS DIRECTLY. THOSE ISSUES ARE CONSIDERED BY THE WAYS AND MEANS COMMITTEE.

BUT I AM CONCERNED THAT HEALTH CARE BE AVAILABLE TO ALL AMERICANS, REGARDLESS OF THEIR ABILITY TO PAY OR OF THE STATE IN WHICH THEY HAPPEN TO FALL SICK.

IN ORDER TO REACH THAT GOAL, I MUST BE CONCERNED ABOUT HEALTH FINANCE. THE CONGRESSIONAL BUDGET PROCESS FORCES ALL HEALTH PROGRAMS TO COMPETE AGAINST EACH OTHER FOR LIMITED DOLLARS. WHEN HOSPITAL INFLATION SHOOTS UP AT A RATE TWICE THAT OF THE CONSUMER PRICE INDEX, CURRENT PROGRAMS ABSORB ALL POSSIBLE FUNDS.

AS A RESULT, ANY IMPROVEMENTS IN PUBLIC CARE ARE STOPPED BEFORE THEY CAN START.

THE CHILD ASSURANCE PROGRAM, FOR EXAMPLE, WHICH WAS TO REACH ALL POOR CHILDREN IN THE COUNTRY FOR ABOUT $2 BILLION WAS DEFEATED BECAUSE OF ITS COSTS, AND THIS YEAR IS BEING CONSIDERED AT TEN PERCENT OF THAT LEVEL.

MANY OF THE MEDICARE AND MEDICAID IMPROVEMENTS PROPOSED IN THE LAST YEAR OF THE CARTER ADMINISTRATION WERE LIKEWISE PUT ASIDE.

INDEED, AS THE PAST TWO YEARS' BUDGETS HAVE SHOWN, RISING HEALTH COSTS WILL LEAD DIRECTLY TO THE REDUCTION OF <u>EXISTING</u> BENEFITS.

WITHIN SUCH A ZERO-SUM GAME, <u>EVERYONE</u> MUST BE INTERESTED IN <u>EVERY</u> EXPENSE. EVERY FEDERAL HEALTH EXPENSE MUST COMPETE WITH EVERY OTHER.

INEFFICIENCIES IN BOND SUBSIDIES, FOR INSTANCE, ARE TRANSLATED QUICKLY INTO FEWER POLIO SHOTS;

OVERBEDDED HOSPITALS MEAN WE CANNOT AFFORD TO TRAIN NURSES;

AND--ACCORDING TO THE ESTIMATES OF THE CBO--EVERY ONE-PERCENT INCREASE IN HOSPITAL INFLATION COSTS THE FEDERAL GOVERNMENT $350 MILLION--AS MUCH AS THE ENTIRE MATERNAL AND CHILD HEALTH PROGRAM.

THE QUESTION FOR THE CONGRESS THEN IS THE ROLE OF TAXES, CAPITAL, AND REIMBURSEMENT IN INCREASING COSTS.

IT IS CLEAR THAT THE OLD MEDICARE SYSTEM OF COST-PLUS REIMBURSEMENT HAS LED TO UNNEEDED FACILITIES, EQUIPMENT, AND SERVICES. PARTS OF THE NEW DRG PROGRAM MAY WELL CONTINUE SUCH DIRECTIONS.

BUT DURING THE LATE SEVENTIES, THE HOSPITAL INDUSTRY WAS RESTRAINED IN ITS CONSTRUCTION AND CAPITAL OUTLAYS:

AFTER FIFTEEN YEARS OF STEADY INCREASE, THE NUMBER OF BEDS PER CAPITA STABILIZED AND EVEN DECLINED SLIGHTLY.

CAPITAL EXPENDITURES--IN REAL DOLLARS--DECLINED FROM THE RECORD LEVELS OF 1972 AND 1976.

THIS SLOWDOWN AROSE FROM A VARIETY OF CAUSES:

DIFFICULT FINANCIAL MARKETS;

PROVIDER AND CONSUMER CONCERN;

CONGRESSIONAL ACTION, SUCH AS SECTION 1122 RESTRAINTS;

AND THE FEDERAL AND STATE HEALTH PLANNING PROGRAMS.

IN THE PAST THREE YEARS, HOWEVER, THERE HAS BEEN A CAPITAL EXPLOSION.

- o CAPITAL EXPENDITURES ARE UP BY 80 PERCENT SINCE 1979. THIS IS OF CONCERN BECAUSE IT IS CLEARLY ESTABLISHED THAT HIGH CAPITAL EXPENDITURES WILL CREATE NEW COSTS FOR THE WHOLE SYSTEM. SOME STUDIES SUGGEST THAT OPERATING COSTS RISE AT A RATE OF ALMOST $300 MILLION DOLLARS ANNUALLY FOR EVERY BILLION SPENT FOR CAPITAL. CBO ALSO ESTIMATES THAT EVERY 10% INCREASE IN BEDS MEANS A 4% INCREASE IN ANNUAL COSTS.

- o BUSINESS LEADERS HAVE TESTIFIED BEFORE MY SUBCOMMITTEE ABOUT A "BUILDING BOOM OF UNPRECEDENTED PROPORTIONS."

- o AND REPRESENTATIVES FROM COMMERCIAL INSURERS TOLD US THAT WE HAVE "GREAT REASONS TO FEAR UNRESTRAINED CAPITAL EXPANSION" AND "ALARMING INCREASES."

I DON'T MEAN TO SUGGEST THAT I THINK ALL RENOVATION AND CONSTRUCTION PROJECTS ARE BAD.

CLEARLY, NO ONE WOULD ARGUE THAT HOSPITALS SHOULD FOLLOW THOSE OTHER AMERICAN INDUSTRIES THAT HAVE ALLOWED THEIR PLANTS AND SYSTEMS TO DETERIORATE BELOW PRODUCTIVE LEVELS.

AND THERE ARE CERTAINLY SOME AREAS IN NEED OF INCREASED CAPACITY.

BUT I DO MEAN THAT THE PRESENT BUILDING BOOM DOESN'T RESPOND TO EITHER OF THESE PROBLEMS. IN FACT, THIS UNPLANNED CONSTRUCTION DRAINS MUCH CAPITAL THAT IS LEFT IN THE MARKET AFTER TREASURY BILLS ARE SOLD AWAY TO BLUE CHIP HOSPITALS, LEAVING COMMUNITY FACILITIES IN STILL WORSE SHAPE.

HEALTH PLANNING HAS CERTAINLY NOT BEEN A COMPLETE SUCCESS IN CONTROLLING SUCH PROBLEMS. AND THE COST-PLUS REIMBURSEMENT SYSTEM HAS OFTEN CREATED CONTRADICTORY INCENTIVES.

BUT PLANNING HAS BEEN SOME HELP IN SLOWING GROWTH. AND THE INDUSTRY AND CONGRESS HAVE BEGUN TO RECOGNIZE AND SUPPORT THIS WORK.

AFTER TWO YEARS OF ADVOCATING THE TOTAL REPEAL OF THE PROGRAM, THE AMERICAN HOSPITAL ASSOCIATION HAS RE-EXAMINED ITS POSITION AND NOW SUPPORTS A MODIFIED PLANNING PROGRAM. THE AMA HAS ACKNOWLEDGED THAT THE PLANNING PROGRAM HAS THE SUPPORT TO SURVIVE.

AND IN CONGRESS, THERE IS GREAT INTEREST IN MAKING SENSIBLE CHANGES IN CURRENT PLANNING LAW, BUT CERTAINLY IN MAINTAINING A PLANNING SYSTEM. THE LEGISLATION ON WHICH WE'VE BEEN WORKING WILL

- BUILD ON CURRENT STATE AND LOCAL PLANNING EFFORTS,
- GIVE STATES THE ABILITY TO SPECIFY THE ROLE OF LOCAL HSA'S IN THE CERTIFICATE OF NEED PROCESS; AND
- SET HIGHER THRESHOLDS FOR C.O.N. REVIEW FOR HOSPITALS.

ANOTHER PROPOSAL--THAT I'M SURE IS FAMILIAR TO YOU--IS THE LIMITATION OF THE USE OF TAX-EXEMPT FINANCING. ONE SUCH PROPOSAL WAS PASSED AS PART OF LAST YEAR'S TAX BILL. SEVERAL OTHERS HAVE BEEN MADE AND THERE IS INTEREST IN BOTH THE HOUSE AND THE SENATE.

THERE ARE REALLY THREE LIMITATIONS THAT WOULD APPLY TO HOSPITAL BONDS:

THE FIRST IS TO REQUIRE THAT AN ELECTED OFFICIAL APPROVE ALL TAX-EXEMPT FINANCING. THIS PROVISION WAS PASSED LAST YEAR.

THE SECOND IS TO REQUIRE THAT THE ISSUING GOVERNMENT--STATE OR LOCAL--CONTRIBUTE TO THE PROJECT.

AND THE THIRD IS TO ESTABLISH AN OVERALL NATIONAL LIMIT ON THE AMOUNT OF TAX-EXEMPT FINANCING THAT WILL BE APPROVED DURING A YEAR.

NONE OF THESE PROPOSALS IS NEW. THEY HAVE BEEN SUGGESTED FOR SOME TIME TO ENSURE THAT TAX-FREE FINANCING SERVES A TRUE PUBLIC PURPOSE.

SOME PEOPLE--ESPECIALLY HOSPITALS AND NURSING HOMES--HAVE ARGUED THAT SUCH A TEST IS INAPPROPRIATE FOR HEALTH FACILITIES.

BUT I BELIEVE THAT NONE OF US--MEDICARE PATIENTS, PRIVATELY INSURED OR JUST TAXPAYERS--CAN AFFORD TO SUBSIDIZE THE CONSTRUCTION OF MORE EMPTY BEDS BY EVERYONE WITH A 501 (C) (3) STATUS.

I WOULD, IN FACT, SUGGEST THAT TAX-EXEMPT STATUS SHOULD BE BASED ON A STATE DETERMINATION OF NEED FOR THE PROJECT. THIS DETERMINATION SHOULD BE BASED ON HEALTH POLICY AND HEALTH MARKETS, NOT JUST THE ABILITY OF THE HOSPITAL TO PAY DIVIDENDS.

WITHOUT SUCH A LIMITATION, TAX-FREE BONDS WILL CONTINUE TO ACT AS AN INEFFICIENT SUBSIDY.

WE WILL BE, IN FACT, DIRECT OUR LIMITED RESOURCES TOWARD SOME OF THE LEAST USEFUL TARGETS. ONE STUDY HAS ALREADY SHOWN THAT THOSE HOSPITALS THAT SERVE THE MOST PUBLIC PATIENTS ARE THE FACILITIES THAT WILL, IN TURN, HAVE THE LOWEST BOND RATINGS AND THE GREATEST DIFFICULTY RAISING NEW CAPITAL.

AT A TIME WHEN ALMOST ELEVEN MILLION PEOPLE HAVE LOST THEIR HEALTH INSURANCE BECAUSE THEY HAVE LOST THEIR JOBS AND TWENTY MILLION OTHERS HAVE NO INSURANCE AT ALL, THE FEDERAL GOVERNMENT CANNOT AFFORD TO GIVE EXEMPTIONS TO HOSPITALS WHOSE ONLY CLAIM TO CHARITABLE STATUS IS THAT THEY DON'T MAKE A PROFIT.

THOSE FACILITIES THAT WOULD BUY MULTIPLE CAT SCANNERS RATHER THAN PROVIDE MATERNITY CARE TO THE POOR HAVE TO ACKNOWLEDGE THAT THE DISTINCTION BETWEEN "PROFIT" AND "NON-PROFIT" HAS BECOME A USELESS LEGAL FICTION.

OF COURSE, NEITHER HEALTH PLANNING NOR BOND RESTRICTIONS WILL PROVIDE A SOLUTION TO EXPLOSIVE HEALTH COSTS. IN ORDER TO CONTROL THE CREATION OF EMPTY WARDS AND CLINICAL GHOST TOWNS, WE HAVE TO LOOK TOWARD RE-STRUCTURING THE THIRD-PARTY PAYMENT SYSTEM.

AS MANY OF YOU KNOW, I HAVE BEEN A LONG-TIME SUPPORTER OF PROSPECTIVE PAYMENT. I MUST SAY, HOWEVER, THAT I WAS CONCERNED AT THE SPEED WITH WHICH THE RECENT DRG LEGISLATION MOVED THROUGH THE HOUSE AND THE SENATE, ALLOWING ONLY BRIEF CONSIDERATION OF SOME OF THE DIFFICULTIES OF THE SYSTEM.

THE HOSPITAL INDUSTRY WORKED CLOSELY WITH THE CONGRESS IN THE DEVELOPMENT OF THE PLAN, AND A NUMBER OF ITS CONCERNS AND SOME OF MINE HAVE BEEN ADDRESSED.

MANY PATIENTS, FOR EXAMPLE, HAVE SEVERE OR MULTIPLE ILLNESSES THAT KEEP THEM HOSPITALIZED FOR PERIODS MUCH LONGER THAN MOST DIAGNOSTICALLY RELATED GROUPS WOULD PREDICT. IT IS CLEAR THAT SOME HOSPITALS END UP WITH A GREAT NUMBER OF THESE SO-CALLED "OUTLIERS." THE RESULT WOULD HAVE BEEN A SEVERE PENALTY FOR PUBLIC HOSPITALS.

I AM PLEASED TO SAY THAT AN AMENDMENT TO HELP MEET THIS PROBLEM WAS ADOPTED AND THAT THE SECRETARY MUST MAKE ADDITIONAL PAYMENT FOR OUTLYING CASES.

IN ADDITION, SINCE SOME HOSPITALS SERVE PATIENTS THAT OTHERS OFTEN REFUSE, IT WAS CLEAR TO ME THAT ADJUSTMENTS TO THE DRG PROGRAM HAD TO BE MADE TO REFLECT THE LIMITATIONS OF THOSE PEOPLE'S INSURANCE AND RESOURCES. CONSEQUENTLY, THE ACT ALSO REQUIRES THAT THE SECRETARY MAKE ADJUSTMENTS AND EXCEPTIONS FOR HOSPITALS THAT SERVE A "DISPROPORTIONATELY LARGE NUMBER OF LOW-INCOME OR MEDICARE BENEFICIARIES."

I SHOULD ADD THAT I BELIEVE THAT THIS ACT, EVEN AS AMENDED, IS ONLY A BEGINNING IN OUR STRUGGLE TO CONTAIN HEALTH CARE COSTS. FOR MUCH MORE OF THE PROGRAM, HOWEVER, WE WILL JUST WAIT AND SEE.

OBVIOUSLY, CHANGING MEDICARE ALONE AFFECTS ONLY A MODERATE NUMBER OF HOSPITAL PATIENTS AND IS A SORT OF "DEVIL TAKE THE HINDMOST" APPROACH TO COSTS. MANY MEMBERS OF CONGRESS HAVE EXPRESSED INTEREST IN INCLUDING OTHER PAYORS AND THE COSTS OF PHYSICIANS UNDER FUTURE PROGRAMS, ALLOWING FOR A COMPREHENSIVE SYSTEM WITHOUT LOOPHOLES AND CROSS-SUBSIDIES.

IN ADDITION, OTHER STATES ARE BEGINNING TO LOOK AT THE COMPLEX QUESTION OF CAPITAL COSTS WITHIN THE PROSPECTIVE PAYMENT PROGRAM.

CLEARLY, IF WE ARE TO SAVE MONEY AT ALL, WE CANNOT LEAVE CAPITAL PAYMENTS AN OPEN-ENDED PART OF PROSPECTIVE PAYMENT.

BUT EQUALLY CLEARLY, WE CANNOT GIVE OUT A FLAT PERCENTAGE ALLOWANCE FOR CAPITAL COSTS: BECAUSE OF THE VARIETY OF FINANCING AND OF PHYSICAL PLANTS, DIFFERENT HOSPITALS HAVE DIFFERENT CAPITAL NEEDS.

WE NEED TO BE ABLE TO ALLOCATE LIMITED CAPITAL TO THOSE HOSPITALS THAT NEED IT THE MOST. NEW YORK AND MASSACHUSETTS HAVE BEGUN STATEWIDE PROGRAMS TO DO JUST THAT--CALLING THESE PROGRAMS THE DETERMINATION OF "AFFORDABILITY." USING DATA ON HOW CAPITAL COSTS INFLUENCE OPERATING COSTS, THE STATE CALCULATES HOW MUCH ITS PUBLIC AND PRIVATE HEALTH INSURANCE PROGRAMS CAN AFFORD IN THE FUTURE AND THEN APPROVES CAPITAL EXPENDITURES ON THE BASIS OF HEALTH NEEDS. IN MASSACHUSETTS, THIS PROGRAM HAS HAD STRONG SUPPORT FROM THE BUSINESS COMMUNITY.

AS THE PROSPECTIVE PAYMENT PLAN FOR MEDICARE DEVELOPS, THE CONGRESS WILL BE WATCHING THE RESULTS OF THESE "AFFORDABILITY" EXPERIMENTS CLOSELY.

FINALLY, I'D LIKE TO MENTION BRIEFLY TWO OTHER PROGRAMS--ONE ONGOING AND ONE DE-RAILED.

AS I MENTIONED EARLIER, CBO HAS ESTIMATED ALMOST ELEVEN MILLION PEOPLE HAVE LOST THEIR INSURANCE DURING THIS RECESSION. THE COMMERCE COMMITTEE HAS RECENTLY PASSED A BILL I PROPOSED TO PROVIDE LIMITED HEALTH CARE COVERAGE TO THOSE PEOPLE. THE BILL ALLOWS NINE INPATIENT DAYS AND TEN OUTPATIENT VISITS PER YEAR, WITH FULL COVERAGE FOR PRENATAL AND DELIVERY CARE. THE BILL ALSO INCLUDES A SMALL GRANTS PROGRAM FOR HOSPITALS THAT CARE FOR A LARGE NUMBER OF UNEMPLOYED AND UNINSURED PEOPLE.

THIS HEALTH INSURANCE FOR THE UNEMPLOYED BILL WILL BE CONSIDERED SHORTLY BY THE FULL HOUSE. ON THE SENATE SIDE, MR. DOLE AND OTHERS ARE WORKING ON A BLOCK GRANT APPROACH TO ALLOW STATES TO DECIDE HOW TO HELP THE UNEMPLOYED.

SECONDLY, I SHOULD MENTION THE REAGAN ADMINISTRATION'S PROPOSAL TO PLACE A CAP ON THE AMOUNT OF TAX-FREE EMPLOYER PAID HEALTH INSURANCE--ESSENTIALLY A PROPOSAL TO COUNT HEALTH BENEFITS AS INCOME. THIS PROPOSAL, SUGGESTED BY THE ADMINISTRATION AS A WAY TO ENHANCE COMPETITION, APPEARS TO HAVE LOST SUPPORT EVEN IN THE SENATE FINANCE COMMITTEE. WITHOUT SUPPORT FROM THE BUSINESS COMMUNITY OR THE LABOR COMMUNITY, THE IDEA APPEARS TO HAVE LITTLE CHANCE OF BEING PASSED BY THE HOUSE WAYS AND MEANS COMMITTEE.

PLANNING, BONDS, PROSPECTIVE PAYMENT, THE UNEMPLOYED--ALTOGETHER IT WILL BE A BUSY AND RAPIDLY CHANGING AGENDA IN CONGRESS OVER THE NEXT FEW MONTHS. HEALTH AND TAXES ARE PERHAPS INEVITABLE, BUT THIS YEAR THEY MAY CHANGE.

THANK YOU.